IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 11516 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

USHABEN VINODBHAI PATEL

Versus

STATE OF GUJARAT

Appearance:

MS SUBHADRA G PATEL for Petitioner

MR HH PATEL for Respondent No. 1, 2, 3

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 27/02/2001

ORAL JUDGEMENT

#. Heard the learned counsel for the parties.

#. Challenging the order dated 4-10-2000 of the Police Commissioner, Surat city under which the petitioner was detained as a bootlegger, learned counsel for the

petitioner raised one of the contentions that there is total non-application of mind in passing of the order. Reference has been made to the fact stated in para-14 of the petition, which reads as under:

> 14. The petitioner says and submits that before passing the order of detention she was acquitted in C.R. No. III 251/99, C.R. No.III 324/99, C.R. No.III 42/2000, C.R. No.III 121/2000 and C.R. No. III 173/2000 but the detaining authority has stated in the grounds of detention that all cases are pending for trial and therefore, there is total non-application of mind on the part of detaining authority. Hence, her continued detention becomes illegal.

#. The fact that before the detention order of the petitioner has been passed, she had been acquitted in the crimina complaints referred in para-14 of the petition is not in dispute. So it is a clear case where there is non-application of mind in passing of the detention order of the petitioner, and only on this ground, this petition succeeds and the same is allowed.

#. In the result, this petition succeeds and the same is allowed. The order of detention of the petitioner dated 4-10-2000 is quashed and set aside. The petitioner Ushaben Vinodbhai Patel, the detenue, at present in Ahmedabad Central Prison, Ahmedabad be set at liberty forthwith, if she is not required in any other case. Rule is made absolute. No order as to costs.

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